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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,263	02/05/2001	Evan Stephen Crandall	105146	4864

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EXAMINER

VOLPER, THOMAS E

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/783,263

Applicant(s)

CRANDALL ET AL.

Examiner

Thomas Volper

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13, 16-23 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lipa et al. (US 6,061,722).

Regarding claims 1, 4, 5, 8, 9 and 18-21, Lipa discloses a connection between a first communication system, zone (113), and a second communication system, client (122) (see Figure 1). Lipa also discloses determining an amount of latency affecting communication between the first and second communication systems (col. 8, line 25 – col. 9, line 53). Lipa discloses that the latency is displayed (Figure 7) and that the latency is compared to a predetermined threshold to determine if the latency can be classified as “Forget It” (col. 9, lines 57-61). This predetermined threshold meets the limitation of a maximum amount of latency. A user can select among a number of zones in order to choose the best latency rating for a connection (col. 9, line 62 – col. 10, line 9), which meets the limitation of compensating for the determined amount of latency.

Regarding claims 2, 6 and 10, Lipa discloses sending a signal from the first communication system to the second communication system requiring a response from the

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second communication system, and comparing a time at which the first signal is sent and a time at which the response is received by the first communication system (col. 8, lines 41-42; col. 9, line 12; col. 9, lines 23-26).

Regarding claims 3, 7 and 11, Lipa discloses the response includes information about a time at which the first signal is received by the second communication system and a time at which the response is sent by the second communication system (col. 8, line 58 – col. 9, line 11). Lipa also discloses using the amount of time between sending a first signal from the first communication system and receiving the response from the second communication system, and using the amount of time between receiving the first signal at the second communication system and sending the response from the second communication system in order to determine the latency (col. 9, lines 13-26).

Regarding claims 12 and 22, Lipa discloses a third communication system, client (122) that is in contact with two zones (105 and 113) (see Figure 1). Zone (113) represents the first communication system of the present invention and zone (105) represents the second communication system of the present invention. Lipa discloses that a latency determination is made for the connection between the first communication system and the third communication system (col. 8, line 25 – col. 9, line 53). Lipa also discloses that a display presents the latency ratings of each zone to the client (122). Thus, a server in zone (105), server (129) for example, must be in communication with the third communication system, client (122), in order to have latency determinations for each zone. This meets the limitation of establishing a communication link between the second communication system and the third communication system, and determining a latency affecting this communication.

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Regarding claims 13 and 23, Lipa discloses comparing determined latency to a predetermined threshold value to determine if the latency can be classified as "Forget It" (col. 9, lines 57-61).

Regarding claim 16, Lipa discloses sending a signal from the first communication system to the third communication system requiring a response from the third communication system, and comparing a time at which the first signal is sent and a time at which the response is received by the first communication system (col. 8, lines 41-42; col. 9, line 12; col. 9, lines 23-26).

Regarding claim 17, Lipa discloses the response includes information about a time at which the first signal is received by the third communication system and a time at which the response is sent by the third communication system (col. 8, line 58 – col. 9, line 11). Lipa also discloses using the amount of time between sending a first signal from the first communication system and receiving the response from the third communication system, and using the amount of time between receiving the first signal at the third communication system and sending the response from the third communication system in order to determine the latency (col. 9, lines 13-26).

Regarding claim 26, Lipa discloses that the third communication system may send a first signal to the other communication system, receive a response, and determine the latency based on the time the first signal was sent and the time the response was received (col. 7, lines 1-9).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipa et al. (US 6,061,722).

Regarding claim 27, Lipa discloses that the third communication system may determine latency by sending a first signal to the other communication system, receiving a response, and determining the difference between the time the first signal was sent and the time the response was received (col. 7, lines 1-9). Lipa also discloses that in one embodiment, the other communication system, server (115) in zone (113) for instance, may initiate a latency determination procedure as well (col. 8, line 58 – col. 9, line 11). In this latency determination, the client (122) determines a time when a signal from the server (115) is sent and a time when the response by the client (122) is sent, and includes this information in the response. This information is used to determine if the response packet would be valid in determining the latency when the server (115) received the response. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the feature of determining a time when the first signal was received by the other communication system and a time when the response was sent by the other communication system, and including this information in the response sent to the third communication system. One of ordinary skill in the art would have been motivated to include this feature in order to determine if the latency determination to be made at the third communication system by sending the first signal and receiving the response would be a valid determination, or whether another determination would need to be made.

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5. Claims 14, 15, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipa et al. (US 6,061,722) as applied to claims 1-13, 16-23 and 26 above, and further in view of Yelon et al. (US 6,415,317).

Regarding claims 14, 15, 24 and 25, Lipa discloses comparing a latency determination to a maximum latency (col. 9, lines 57-61). Lipa fails to expressly disclose compensating for a difference in the amount of latency between the first and third communication systems and the second and third communication systems. Yelon discloses compensating for the latency between a server and client by effectively eliminating the latency therebetween, at least in appearance to the client (col. 2, line 46 – col. 3, line 23). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use this latency compensation technique between the first and third communication system and the second and third communication system. This would eliminate the appearance of latency for the two connections at the third communication system, thus effectively eliminating the difference between the two latencies of the two connections. One of ordinary skill in the art would have been motivated to do this in order to produce a more visually appealing presentation at the display of the third communication system.

#### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Shaham et al. (US 2004/0071085) System and Method for a Transmission Rate Controller

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- Robinson et al. (US 6,570,867) Routes and Paths Management

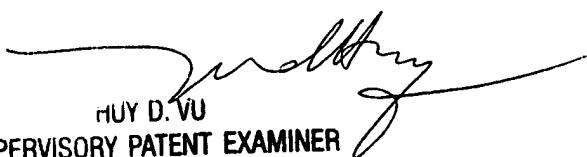
7. Any inquiry concerning this communication, or earlier communications from the examiner should be directed to Thomas Volper whose telephone number is 703-305-8405 and fax number is 703-746-9467. The examiner can normally be reached between 8:30am and 6:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached at 703-308-6602. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Thomas E. Volper

*TEV*

June 17, 2004

  
HUY D. VU  
SUPERVISORY PATENT EXAMINER  
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